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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In re )

HICKS BROADCASTING )  
OF INDIANA, LLC )

MM Docket No. 98-66

Order to Show Cause Why the License for FM )  
Radio Station WRBR(FM), South Bend, )  
Indiana, Should Not Be Revoked; )

and )

PATHFINDER COMMUNICATIONS CORP. )

Order to Show Cause Why the License for FM )  
Radio Station WBYT(FM), Elkhart, Indiana, )  
Should Not Be Revoked; )

and )

Applications of )

MICHIANA TELECASTING CORP. )  
(ASSIGNOR) )

and )

File Nos. BAL-960809GQ &  
BALH-960809GR

PATHFINDER COMMUNICATIONS CORP. )  
(ASSIGNEE) )

For assignment of the licenses of: )  
WNDU-AM-FM, South Bend, Indiana )

**Pathfinder Communications Corporation's Response to the Mass Media  
Bureau's Request for Admissions of Fact and Genuineness of Documents**

Pathfinder Communications Corporation ("Pathfinder"), by and through  
undersigned counsel, hereby responds and objects to the Mass Media Bureau's Request for  
Admissions of Fact and Genuineness of Documents ("Request for Admissions").

**Federal Communications Commission**

**Docet No. MMF-66** **MMF** **10-27-68**

**Presented by:** **MMF-66** **MMF** **10-27-68**

**Identified** **Received** **Rejected**

**Disposition** **10-6-95** **10-27-97**

**Reporter** **10-6-95** **10-27-97**

**Date** **10-6-95** **10-27-97**

### **Preliminary Statement**

Pathfinder expressly reserves the right to amend or supplement these responses and objections as additional responsive information is found by way of discovery or otherwise.

### **General Objections**

Pathfinder makes the following general objections to the Mass Media Bureau's Request for Admissions. These general objections are incorporated by reference into each response to each request for admission, thus each and every response is made subject to and without waiving these general objections.

1. Pathfinder objects to any and all requests for admissions to the extent that they call for the identification or disclosure of any information that is protected by the attorney-client privilege, work product doctrine or any other applicable claim of privilege.

2. Pathfinder objects to the Bureau's definition of "Pathfinder" in its Request for Documents as overbroad and unduly burdensome to the extent that the definition was intended to be used in the Bureau's Request for Admissions.

### **Admissions**

1. **BUREAU REQUEST:** John F. Dille, III, ("Dille" or "John Dille") President, a director, and majority stockholder of Pathfinder, was contacted in the summer of 1992 by John Booth of Booth American Company ("BAC") for the purpose of discussing a Joint Sales Agreement involving Radio Station WBYT(FM) (formerly WLTA(FM)), Elkhart, Indiana, licensed to Pathfinder, and WRBR(FM), South Bend, Indiana, then licensed to BAC.

**PATHFINDER RESPONSE:** Admitted.

2. BUREAU REQUEST: Following negotiations between Pathfinder and BAC, a Joint Sales Agreement ("JSA") was in fact entered into between those parties on December 18, 1992.

PATHFINDER RESPONSE: Admitted.

3. BUREAU REQUEST: Attachment 1 hereto is a genuine copy of the JSA entered into on December 18, 1992.

PATHFINDER RESPONSE: Admitted.

4. BUREAU REQUEST: In the Spring of 1993, Dille learned of BAC's interest in selling Station WRBR and a series of discussions occurred about the possible purchase of WRBR by Pathfinder.

PATHFINDER RESPONSE: Admitted.

5. BUREAU REQUEST: The acquisition of WRBR by Pathfinder would have required a waiver of the radio-newspaper cross-ownership rule, Section 73.3555(d) of the Commission's rules, 47 C.F.R. § 73.3555(d), because Dille had — and still has — an attributable interest in Truth Publishing Company, Inc., publisher of the Elkhart Truth, a daily newspaper published in Elkhart, Indiana, a community entirely within the predicted 1 mV/m contour of Station WRBR.

PATHFINDER RESPONSE: Admitted.

6. BUREAU REQUEST: In July 1993, BAC indicated to Dille that it was unwilling to enter into an agreement to sell WRBR to Pathfinder that was dependent upon favorable FCC action on a request for a waiver of the radio-newspaper cross-ownership rule.

PATHFINDER RESPONSE: Denied. In July 1993, BAC indicated to Dille that it was unwilling to wait for Pathfinder to obtain a waiver of the radio-newspaper cross-ownership rule. BAC thus informed Dille that, while it remained amenable to selling the station to Dille, it would pursue other opportunities to sell the station.

7. BUREAU REQUEST: Thereafter Dille contacted David Hicks and proposed that Hicks should become the controlling principal of an entity that would acquire the license of WRBR.

PATHFINDER RESPONSE: Denied. Dille contacted both David Hicks and Niles Broadcasting (both of whom had been previously contacted by BAC) and proposed to each that either could become a controlling principal of an entity that would acquire the license of WRBR.

8. BUREAU REQUEST: Subsequent to his initial contact with Hicks, Dille decided that his three children — John F. Dille, IV, Sarah F. Dille, and Alec C. Dille (collectively, “the Dille children”) — would hold the noncontrolling interest in the proposed entity in three equal parts, to which David Hicks agreed.

PATHFINDER RESPONSE: Denied. Subsequent to his initial contact with Hicks, Dille proposed to Hicks that his three children hold a pro rata noncontrolling interest in a proposal entity, and David Hicks agreed.

9. BUREAU REQUEST: On August 17, 1993, Dille sent by fax to John Booth a Note proposing the sale of WRBR to the new entity including Hicks and Dille’s children, provisionally identified as Newco.

PATHFINDER RESPONSE: Admitted.

10. BUREAU REQUEST: Attachment 2 hereto is a genuine copy of the Note faxed to John Booth on August 17, 1993.

PATHFINDER RESPONSE: Admitted.

11. BUREAU REQUEST: On August 17, 1993, Pathfinder's counsel, Alan Campbell, prepared and sent a Memorandum concerning the proposed transaction to John Quale, counsel for BAC.

PATHFINDER RESPONSE: Denied, Alan Campbell was acting as counsel for the proposed Newco when he sent the letter of August 17, 1993 to John Quale.

12. BUREAU REQUEST: Attachment 3 hereto is a genuine copy of the August 17, 1993, Memorandum.

PATHFINDER RESPONSE: Admitted.

13. BUREAU REQUEST: Dille's efforts to organize an entity for the purpose of acquiring the license of WRBR were designed in substantial part to ensure that the entity that succeeded BAC as the licensee of WRBR would continue the Joint Sales Agreement with Pathfinder.

PATHFINDER RESPONSE: Admitted that John Dille sought to preserve the JSA with WRBR.

14. BUREAU REQUEST: On November 30, 1993, an Asset Purchase Agreement ("APA") was entered into between BAC and Hicks as agent for an Indiana limited liability company to be formed.

PATHFINDER RESPONSE: Admitted.

15. BUREAU REQUEST: The purchase price and terms of payment specified in the APA were substantially similar to the purchase price and terms of payment that had previously been negotiated between BAC and Pathfinder.

PATHFINDER RESPONSE: Admitted.

16. BUREAU REQUEST: John Dille assured BAC principal John Booth informally that Dille or his children would ensure payment of the amounts due to BAC, irrespective of what happened.

PATHFINDER RESPONSE: Denied.

17. BUREAU REQUEST: Prior to November 30, 1993, Dille had proposed to Hicks some form of option or buy/sell arrangement whereby the Dille children would be able to acquire the controlling interest of Hicks in the company to be formed to acquire the WRBR license; and Hicks had expressed no objection to such an arrangement to Dille.

PATHFINDER RESPONSE: Denied to the extent it suggests there was an agreement or understanding between Dille and Hicks that some form of option or buy/sell arrangement was part of the proposed Newco prior to November 30, 1993.

18. BUREAU REQUEST: Prior to November 30, 1993, none of the Dille children had met with Hicks regarding the proposed venture to acquire the WRBR license.

PATHFINDER RESPONSE: Admitted.

19. BUREAU REQUEST: On November 30, 1993, the sum of \$24,500 was deposited in an escrow account in the form of three approximately equal payments from the Dille children to cover their portion of an escrow deposit required by the APA.

PATHFINDER RESPONSE: Admitted.



20. BUREAU REQUEST: Prior to the escrow deposit, John Dille had written checks to each of his children in the amount of their individual escrow obligation, which the children deposited in their own accounts. The Dille children then wrote checks to the escrow agent in the same amount as the funds received from Dille.

PATHFINDER RESPONSE: Admitted.

21. BUREAU REQUEST: Attachment 4 includes genuine copies of canceled checks, deposit slips, and memoranda to each of the Dille children from Robert Watson, Secretary-Treasurer of Pathfinder, reflecting the transactions described in the two foregoing Requests.

PATHFINDER RESPONSE: Admitted.

22. BUREAU REQUEST: An application for Commission approval of the assignment of the WRBR license from BAC to the entity now known as Hicks Broadcasting of Indiana, LLC (HBI) was filed on December 22, 1993.

PATHFINDER RESPONSE: Admitted.

23. BUREAU REQUEST: The HBI application was filed by the law firm of Irwin, Campbell & Crowe, P.C., which also represented Pathfinder at the time.

PATHFINDER RESPONSE: Admitted with the clarification that the law firm of Arent Fox Kintner Plotkin & Kohn ("Arent Fox") also acted as FCC counsel to Pathfinder between April 1993 and December 1994.

24. BUREAU REQUEST: Attachment 5 hereto is a genuine copy of letter dated February 22, 1994, addressed to the Commission and signed by John Dille.

PATHFINDER RESPONSE: Admitted.

25. BUREAU REQUEST: When he signed Attachment 5, John Dille knew that it would be submitted to the Commission in connection with the HBI assignment application; and that its purpose was to respond to a request for additional information made by the Commission's staff.

PATHFINDER RESPONSE: Denied to the extent that it suggests Dille knew what the precise request for additional information was. Otherwise, it is admitted that Dille knew the statement would be submitted to the Commission as a response to a request for additional information made by the Commission's staff.

26. BUREAU REQUEST: When he signed Attachment 5, John Dille knew that he had provided and intended in the future to provide funds to the Dille children to enable them to meet their obligations to HBI and that some or all of the funds provided to HBI by the Dille children would be used to discharge HBI's obligations to BAC under the APA.

PATHFINDER RESPONSE: It is admitted that John Dille knew that he had provided funds to his children to enable them to meet their obligations to HBI when he signed Attachment 5. At that time, however, Mr. Dille did not anticipate making future loans to his children in connection with this endeavor (although he did not want to be precluded from doing so) and any suggestion to the contrary in Request for Admission number 26 is therefore denied.

27. BUREAU REQUEST: Attachment 6 hereto is a genuine copy of a February 17, 1994, letter from Alan C. Campbell, counsel representing HBI in connection with the acquisition of WRBR, to Hicks reflecting that a copy was sent to Robert Watson, Secretary/Treasurer of Pathfinder.

PATHFINDER RESPONSE: Admitted, except to the extent that Request for Admission number 27 intimates that a copy of Attachment 6 was actually sent to Robert Watson on or about February 17, 1994.

28. BUREAU REQUEST: A copy of the February 17, 1994, letter was received by Pathfinder shortly after the date thereof and has been in Pathfinder's files since that time.

PATHFINDER RESPONSE: Denied. The only copy of Attachment G in the Pathfinder files was sent to Pathfinder on March 27, 1997 in connection with preparing a response to the Commission's Letter of Inquiry.

29. BUREAU REQUEST: Approval of the assignment of the WRBR license from BAC to HBI was granted by the Commission on March 16, 1994.

PATHFINDER RESPONSE: Admitted.

30. BUREAU REQUEST: BAC and HBI closed on the sale of WRBR on March 31, 1994.

PATHFINDER RESPONSE: Admitted.

31. BUREAU REQUEST: BAC's rights and obligations under the Joint Sales Agreement with Pathfinder were assigned to HBI at the closing.

PATHFINDER RESPONSE: Admitted.

32. BUREAU REQUEST: In connection with the closing, Hicks and the Dille children entered into a Side Letter dated March 31, 1994.

PATHFINDER RESPONSE: Admitted.

33. BUREAU REQUEST: A genuine copy of the Side Letter is attached here as Attachment 7.

PATHFINDER RESPONSE: Admitted.

34. BUREAU REQUEST: John Dille negotiated the Side Letter on behalf of his children.

PATHFINDER RESPONSE: Admitted.

35. BUREAU REQUEST: On March 23, 1994, HBI and Pathfinder entered into an agreement whereby Pathfinder would provide accounting services to HBI.

PATHFINDER RESPONSE: Admitted.

36. BUREAU REQUEST: Attachment 8 hereto is a genuine copy of the accounting agreement.

PATHFINDER RESPONSE: Admitted.

37. BUREAU REQUEST: The accounting agreement was amended on December 29, 1995.

PATHFINDER RESPONSE: Admitted.

38. BUREAU REQUEST: Attachment 9 hereto is a genuine copy of the amendment to the accounting agreement.

PATHFINDER RESPONSE: Admitted.

39. BUREAU REQUEST: Vendors and employees of WRBR have, since HBI became the licensee, been paid by Pathfinder with checks written on a checking account that bears Pathfinder's name, but is marked with a stamp as being for HBI.

PATHFINDER RESPONSE: Admitted, except to the extent that Request for Admission number 39 suggests that the practice represents anything other than an operating

efficiency and a clerical convenience. Pathfinder has not stamped payroll checks in the above-mentioned manner at any time.

40. BUREAU REQUEST: Under the APA between BAC and HBI, payments of \$5,000 were due on October 1, November 1, and December 1, 1994, and January 1, February 1, and March 1, 1995.

PATHFINDER RESPONSE: Admitted.

41. BUREAU REQUEST: For each of the \$5,000 payments due as indicated in the foregoing Request, the Dille children paid the collective sum of \$2,450.00 on a pro rata basis.

PATHFINDER RESPONSE: Denied. The Dille children each loaned HBI their share of the payments, and HBI then made the entire payment.

42. BUREAU REQUEST: Prior to each such payment, John Dille provided each of his children with a check in the amount of the payment due.

PATHFINDER RESPONSE: Denied. John Dille provided each of his children with a check equal the pro rata amount of the payment due.

43. BUREAU REQUEST: Pursuant to the APA, HBI was obligated to pay BAC \$105,000 by April 1, 1995.

PATHFINDER RESPONSE: Admitted.

44. BUREAU REQUEST: The \$105,000 payment was made entirely by the Dille children in equal payments of \$35,000.

PATHFINDER RESPONSE: Denied. HBI made the \$105,000 payment after receiving a loan in that amount from the Dille children.

45. BUREAU REQUEST: Each of the Dille children wrote a check in the amount of \$35,000 to HBI, prior to which each had received a check from John Dille in that amount.

PATHFINDER RESPONSE: Admitted.

46. BUREAU REQUEST: Attachments 10, 11 and 12 are genuine copies of March 20, 1995, memoranda to each of the Dille children from Robert Watson, Secretary-Treasurer of Pathfinder, transmitting the check from John Dille and providing payment instructions.

PATHFINDER RESPONSE: Admitted.

47. BUREAU REQUEST: The payments of \$35,000 from each of the Dille children were initially treated as paid in capital in the books of HBI, which were maintained by Pathfinder, but were reclassified as loans in December 1995.

PATHFINDER RESPONSE: Admitted with the further clarification that the payments were always viewed as a loan.

48. BUREAU REQUEST: On December 29, 1995, the Dille children received checks from HBI in the amount of \$42,999.99 to John F. Dille, IV; \$43,000 to Sarah Dille; and \$43,816.67 to Alec Dille.

PATHFINDER RESPONSE: Admitted.

49. BUREAU REQUEST: The payments referenced in the foregoing Request were treated as repayment of loans for funds provided in connection with the November 30, 1993, escrow deposit and the \$105,000 payment to BAC due by April 1, 1995.

PATHFINDER RESPONSE: Admitted.

50. BUREAU REQUEST: The December 29, 1995, payments to the Dille children did not include any interest payments.

PATHFINDER RESPONSE: Admitted.

51. BUREAU REQUEST: The Dille children have not returned any portions of the December 29, 1995, payments to John Dille.

PATHFINDER RESPONSE: Admitted.

52. BUREAU REQUEST: Subsequent to the \$105,000 payment due to BAC by April 1, 1995, the next payment due to BAC was a \$10,000 payment due by April 1, 1996, which was paid by Hicks.

PATHFINDER RESPONSE: Denied. Hicks made a \$10,000 loan to HBI, which then made the April 1, 1996 payment.

53. BUREAU REQUEST: The next payment due to BAC was a \$10,000 payment due by May 1, 1996, which was paid by the Dille children.

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PATHFINDER RESPONSE: Denied. The Dille children made a pro rata \$10,000 loan to HBI, which then made the May 1, 1995 payment.

54. BUREAU REQUEST: Each of the Dille children received a check in the amount of their share of the payment due May 1, 1996 from John Dille, after which they wrote a check in the amount of their share to HBI.

PATHFINDER RESPONSE: Admitted.

55. BUREAU REQUEST: The next payment due to BAC was a \$10,000 payment due by June 1, 1996, which was paid by Hicks and the Dille children on a pro rata basis.

PATHFINDER RESPONSE: Denied. Hicks and the Dille children made loans to HBI in proportion to their respective membership interests, which then made the June 1, 1996 payment.

56. BUREAU REQUEST: Each of the Dille children received a check in the amount of their share of the payment due June 1, 1996, from John Dille, after which they wrote a check in the amount of their share to HBI.

PATHFINDER RESPONSE: Admitted.

57. BUREAU REQUEST: All payments to BAC subsequent to the payment due June 1, 1996, have been paid from the proceeds of the operations of station WRBR.

PATHFINDER RESPONSE: Admitted.

58. BUREAU REQUEST: Steve Kline was hired in September 1993 to be the general manager of WBYT(FM) and WRBR(FM) after an interview with John Dille and David Hayes, a Pathfinder employee.

PATHFINDER RESPONSE: Denied. Steve Kline was hired to be General Manager of WBYT(FM) and Radio One, the entity created by the JSA, in September 1993. In April, 1994, Steve Kline was hired to be GM of WRBR(FM) by David Hicks.

59. BUREAU REQUEST: Steve Kline did not meet David Hicks until sometime in the summer of 1994.

PATHFINDER RESPONSE: Denied.

60. BUREAU REQUEST: Pathfinder employees holding the following positions have performed the same duties for WRBR since HBI's acquisition of the license: Chief



Engineer, Operations Manager, Production/Continuity, Event Coordinator, General Sales Manager, Office Manager/Traffic, and General Manager

PATHFINDER RESPONSE: Admitted with the further clarification that Pathfinder did not employ an Event Coordinator from the time of HBI's acquisition of the license until early 1996. From February 1996 until July 1997, Event Coordinator was a part-time position. In July 1997, the position became full-time.

61. BUREAU REQUEST: During some periods following the acquisition of WRBR by HBI, Phil Britten, a Pathfinder employee, was the Program Director of both WRBR and WBYT.

PATHFINDER RESPONSE: Admitted that Phil Britten held the title of Program Director for both WRBR and WBYT. In fact, however, Britten had very little involvement in programming for WRBR. Bob Henning, who had held the position of Program Director at WRBR before Britten, remained in the employ of WRBR after Britten's hiring and shared the responsibility for WRBR programming with Joe Turner.

62. BUREAU REQUEST: During some periods following the acquisition of WRBR by HBI, Joe Turner, a Pathfinder employee, was the Assistant Program Director of both WRBR and WBYT.

PATHFINDER RESPONSE: Denied. Joe Turner served as interim Program Director for both stations for one month.

63. BUREAU REQUEST: Since the acquisition of WRBR by HBI, news programming broadcasting on WRBR has come primarily from the radio news room of station

WTRC(AM), Elkhart, Indiana, which is licensed to Pathfinder, which programming has been broadcast on WTRC and WBYT as well as WRBR.

PATHFINDER RESPONSE: Denied. While WTRC(AM), Elkhart, Indiana news room personnel compiled and broadcast the news for WTRC, WBYT and WRBR, they individually tailored newscasts consistent with each station's programming.

64. BUREAU REQUEST: Since the acquisition of WRBR by HBI, Pathfinder employees have been responsible for a change of format at WRBR.

PATHFINDER RESPONSE: Denied.

65. BUREAU REQUEST: Since the acquisition of WRBR by HBI, Pathfinder personnel policies and its Employee Manual have also applied to employees of WRBR.

PATHFINDER RESPONSE: Admitted that HBI adopted Pathfinder's personnel policies and employee manual.

66. BUREAU REQUEST: Stations WRBR and WBYT share the same office and studio space.

PATHFINDER RESPONSE: Admitted.

67. BUREAU REQUEST: Since the acquisition of WRBR by HBI, there has been no written agreement between Pathfinder and HBI with respect to the sharing of office and studio space.

PATHFINDER RESPONSE: Admitted, but the two entities have an oral rental agreement pursuant to which payments have been made since the inception of the arrangement.

68. BUREAU REQUEST: At least until the release of the Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing, in this proceeding, FCC 98-

88, released May 18, 1998, the law firm of Irwin, Campbell & Tannenwald, P.C. (or predecessors thereof), has represented both Pathfinder and HBI.

PATHFINDER RESPONSE: Admitted with the further clarification that Arent Fox also represented Pathfinder as FCC counsel from April 1993 until December 1994.

69. BUREAU REQUEST: Except for the Joint Sales Agreement and the accounting agreement, there are no written agreements concerning the sharing of costs by Pathfinder and HBI.

PATHFINDER RESPONSE: Admitted.

70. BUREAU REQUEST: HBI experienced a net operating loss of \$161,684 as of December 31, 1994, which was funded by Pathfinder as loans for which no interest was charged.

PATHFINDER RESPONSE: Admitted in part and denied in part. HBI experienced a net operating loss of \$161,684 for the year ended December 31, 1994. However, Pathfinder carried a short-term receivable on its books as of December 31, 1994 in the amount of \$63,598.

71. BUREAU REQUEST: Pathfinder also funded as interest-free loans operating losses that occurred at various times in 1995 and 1996.

PATHFINDER RESPONSE: Denied, Pathfinder carried HBI's negative net operating balances as short-term receivables at various times in 1995 and 1996. Since January 1, 1997, monthly positive or negative operating balances have been settled in accordance with an amendment to the JSA.

72. BUREAU REQUEST: Since HBI's acquisition of WRBR, there has been no written loan agreement between Pathfinder and HBI.

PATHFINDER RESPONSE: Admitted.

73. BUREAU REQUEST: Hicks was on the payroll of Truth Publishing Company, Inc. ("Truth"), a related entity to Pathfinder, from September 1, 1994 to December 31, 1994, as an employee of Sign-Pro of Indiana, Inc. ("Sign-Pro") (a vinyl sign business owned by John Dille).

PATHFINDER RESPONSE: Admitted.

74. BUREAU REQUEST: Beginning January 1, 1995, Hicks also provided assistance to all of Pathfinder's radio stations in the area of national sales, in addition to working part-time for Sign-Pro.

PATHFINDER RESPONSE: Admitted.

75. BUREAU REQUEST: Effective July 1, 1995, Hicks ceased to be involved with Sign-Pro and became General Manager of radio stations WCUZ(AM), WCUZ-FM, Grand Rapids, Michigan, and WAKX(FM), Holland, Michigan, all of which were licensed to Pathfinder, a position he held until March 1, 1997.

PATHFINDER RESPONSE: Admitted.

76. BUREAU REQUEST: From September 1, 1994, to July 1, 1995, Hicks' salary was approximately \$70,000 per year, plus possible bonuses and other fringe benefits.

PATHFINDER RESPONSE: Denied. Hick's base salary was \$60,000/year from September 1, 1994 to December 31, 1994.

77. BUREAU REQUEST: Subsequent to July 1, 1995, Hicks' salary is approximately \$100,000 per year, plus possible bonuses and other fringe benefits.

PATHFINDER RESPONSE: Denied. Hick's base salary is \$70,000/year subsequent to January 1, 1995.

78. BUREAU REQUEST: Truth publishes a daily newspaper in Elkhart, Indiana, the Elkhart Truth.

PATHFINDER RESPONSE: Admitted.

79. BUREAU REQUEST: The 1mV/m contour of WRBR encompasses the entire community of Elkhart, Indiana.

PATHFINDER RESPONSE: Admitted.

80. BUREAU REQUEST: John Dille has owned stock in Truth and Pathfinder constituting attributable interests pursuant to Section 73.3555 of the Commission's Rules since the JSA agreement with WRBR was entered into on December 18, 1992.

PATHFINDER RESPONSE: Admitted.

81. BUREAU REQUEST: Attachment 13 hereto is a genuine copy of an amendment to the applications for assignment of license for stations WNDU(AM) and WNDU-FM, South Bend, Indiana, filed by Pathfinder on April 3, 1997.

PATHFINDER RESPONSE: Admitted.

82. BUREAU REQUEST: Attachment 14 is a true and accurate copy of the civil trial deposition given by John F. Dille, III, on December 8, 1995, in *Hicks v. Crystal Radio Group, Inc.*, No. B94-3603-NZ (Michigan Circuit Ct., Kalamazoo, Michigan).

PATHFINDER RESPONSE: Admitted.

83. BUREAU REQUEST: Attachment 15 is a true and accurate copy of the civil trial deposition given by Robert Watson, on January 30, 1996, in *Hicks v. Crystal Radio Group, Inc.*, No. B94-3603-NZ (Michigan Circuit Ct., Kalamazoo, Michigan).

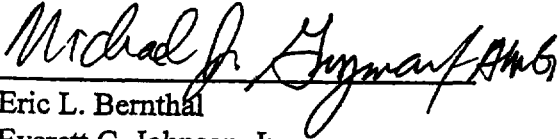
PATHFINDER RESPONSE: Admitted.

I hereby certify under penalty of law that the foregoing admissions are true and correct.

John F. Dille  
PATHFINDER COMMUNICATIONS CORP.

By: John F. Dille  
President

As to the foregoing objections,

  
Eric L. Bernthal

Everett C. Johnson, Jr.

Michael J. Guzman

OF LATHAM & WATKINS

Counsel for Pathfinder Communications Corp.

and John F. Dille



**CERTIFICATE OF SERVICE**

I, Lucinda Wade, certify that I have on this 22<sup>nd</sup> day of July 1998, sent by regular

United States mail, one copy of the foregoing "Pathfinder Communications Corporation's

**Response to the Mass Media Bureau's Request for Admissions of Fact and Genuineness of**


**Documents" to:**

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August 21, 1998

**BY HAND DELIVERY**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

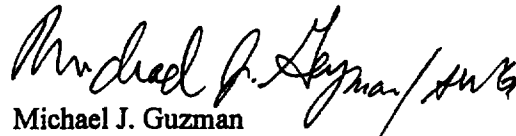
Re: *Hicks Broadcasting of Indiana, LLC, et al.*, MM Docket No. 98-66

Dear Madam Secretary:

Newly discovered evidence requires the supplementation of Pathfinder Communication Corporation's Response to the Mass Media Bureau's Request for Admissions of Fact and Genuiness of Documents submitted on July 22, 1998.

Accordingly, on behalf of Pathfinder Communications Corporation I enclose, in triplicate for filing, Pathfinder's Supplemental Response to the Mass Media Bureau's Request for Admissions of Fact and Genuiness of Documents Number 11. This supersedes the response to request for admission number 11 Pathfinder submitted July 22, 1998.

Respectfully submitted,

  
Michael J. Guzman  
of LATHAM & WATKINS

enclosures

cc: Service list

24

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In re	)	
	)	
HICKS BROADCASTING	)	MM Docket No. 98-66
OF INDIANA, LLC	)	
	)	
Order to Show Cause Why the License for FM	)	
Radio Station WRBR(FM), South Bend,	)	
Indiana, Should Not Be Revoked;	)	
	)	
and	)	
	)	
PATHFINDER COMMUNICATIONS CORP.	)	
	)	
Order to Show Cause Why the License for FM	)	
Radio Station WBYT(FM), Elkhart, Indiana,	)	
Should Not Be Revoked;	)	
	)	
and	)	
	)	
Applications of	)	
	)	
MICHIANA TELECASTING CORP.	)	
(ASSIGNOR)	)	
	)	
and	)	File Nos. BAL-960809GQ &
	)	BALH-960809GR
PATHFINDER COMMUNICATIONS CORP.	)	
(ASSIGNEE)	)	
	)	
For assignment of the licenses of:	)	
WNDU-AM-FM, South Bend, Indiana	)	

**Pathfinder Communications Corporation's Supplemental Response to the Mass Media  
Bureau's Request for Admissions of Fact and Genuineness of Documents Number 11**

11. BUREAU REQUEST: On August 17, 1993, Pathfinder's counsel, Alan Campbell, prepared and sent a Memorandum concerning the proposed transaction to John Quale, counsel for BAC.

**PATHFINDER SUPPLEMENTAL RESPONSE**: Admitted.

I hereby certify under penalty of law that the  
foregoing admissions are true and correct.

461.7.26  
PATHFINDER COMMUNICATIONS CORP.

By: John F. Dille  
President

**CERTIFICATE OF SERVICE**

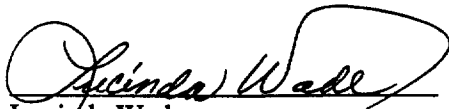
I, Lucinda Wade, certify that I have on this 21<sup>st</sup> day of August 1998, sent by regular United States mail, one copy of the foregoing "Pathfinder Communications Corporation's Amended Response to the Mass Media Bureau's Request for Admissions of Fact and Genuineness of Documents Number 11" to:

James Shook  
Roy Boyce  
Kathryn Berthot  
Federal Communications Commission  
Complaints & Political Programming Branch  
Enforcement Division  
2025 M Street, N.W.  
Suite 820  
Washington, D.C. 20554

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Washington, D.C. 20005

Chief Administrative Law Judge Joseph Chachkin  
Federal Communications Commission  
2000 L Street, N.W., Suite 226  
Washington, D.C. 20554

  
Lucinda Wade